

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK REESE, JAMES
CICHANOFSKY, ROGER MILLER, and
GEORGE NOWLIN, on behalf of
themselves and a similarly situated class,

Plaintiffs,

v.

Case No. 04-70592

CNH GLOBAL N.V. and
CNH AMERICA LLC,

Honorable Patrick J. Duggan

Defendants.

**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFFS' MOTION FOR EXTENSION OF SCHEDULING ORDER**

This matter is before the Court on Plaintiffs' motion for an extension of the scheduling order set by the Court at a February 4, 2013 status conference. (ECF No. 344.) Plaintiffs ask the Court to extend the dates in the order by ninety (90) days due to Defendants' objection and refusal to respond to approximately twenty interrogatories propounded by Plaintiffs. Because Magistrate Judge Komives issued an order on May 20, 2013, requiring Defendants to serve supplemental answers to all but four of Plaintiffs' outstanding interrogatories (ECF No. 346), the Court finds good cause to extend the scheduling order. However, the Court declines to extend the deadlines by the ninety days proposed by Plaintiffs. The

Court therefore is granting in part and denying in part Plaintiffs' motion.

Background

At the February 4, 2013 scheduling conference, the Court set the following deadlines:

2/20/13	Plaintiffs to submit questions regarding the Plan to Defendants
3/1/13	Defendants to respond to Plaintiffs' questions
3/14/13	Plaintiffs to submit discovery requests to Defendants
4/13/13	Defendants to respond to Plaintiffs' discovery requests
6/1/13	Reports due from Plaintiffs' experts
6/21/13	Reports due from Defendants' experts
7/21/13	Discovery closes
8/15/13	Dispositive motion cut-off
9/5/13	Dispositive motion(s) responses(s) due
9/12/13	Dispositive motion(s) reply brief(s) due

In accordance with the above dates, Plaintiffs submitted discovery requests to Defendants on March 14, 2013, including fifty-one interrogatories. Defendants refused to respond to more than the twenty-five interrogatories permitted under the Federal Rules of Civil Procedure, *see* Fed. R. Civ. P. 33, and asked Plaintiffs to identify which twenty-five interrogatories they wanted Defendants to answer.

Plaintiffs then filed a motion on March 21, 2013, seeking leave to serve more than twenty-five interrogatories. (ECF No. 337.) This Court referred the matter to Magistrate Judge Paul J. Komives.

While Plaintiffs' motion was pending before the magistrate judge, Plaintiffs filed the current motion to extend the scheduling order. Citing the discovery dispute concerning the unanswered interrogatories, Plaintiffs contend in their motion that there is good cause to extend the current deadlines. Defendants filed an opposition to Plaintiffs' motion, arguing that no extension should be granted. (ECF No. 345.) After Magistrate Judge Komives issued his order granting in part Plaintiffs' motion and ordering Defendants to serve supplemental answers to twenty interrogatories, Defendants filed a "Notice Regarding Plaintiffs' Pending Motion Regarding the Current Scheduling Order" in which they offer an "alternative resolution" to the motion. (ECF No. 349.) More specifically, Defendants suggest an extension of the previously set deadlines but an extension that more closely reflects the current timeline.

Discussion

Pursuant to the Federal Rules of Civil Procedure, a scheduling order "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "Good cause" exists "only if a deadline cannot reasonably be met despite

the diligence of the party seeking the extension.” *Marcilis v. Twp. of Redford*, 693 F.3d 589, 597 (6th Cir. 2012) (quoting *Leary v. Daeschner*, 349 F.3d 888, 906 (6th Cir. 2003) (internal quotation marks omitted)) (brackets removed). In the present matter, where Defendants have not adequately responded to twenty of Plaintiffs’ interrogatories and the magistrate judge has concluded that they should be responded to, the Court finds good cause to extend the current scheduling order.

However, the Court sees no reason to deviate from the time between the deadlines to which the parties previously agreed. The Court therefore denies Plaintiffs’ request to extend the current deadlines by ninety (90) days. Assuming Defendants will act in accordance with Magistrate Judge Komives’ May 20, 2013 ruling and serve adequate supplemental answers to Interrogatory Nos. 5-9, 34-38, 40-47, and 49-50 within thirty days of the order, or by June 19, 2013, the Court modifies the scheduling order as follows:

6/19/13	Defendants to respond to Plaintiffs’ discovery requests
8/6/13	Reports due from Plaintiffs’ experts
8/26/13	Reports due from Defendants’ experts
9/25/13	Discovery closes
10/21/13	Dispositive motion cut-off
11/11/13	Dispositive motion(s) responses(s) due

11/18/13 Dispositive motion(s) reply brief(s) due.

Accordingly,

IT IS ORDERED, that Plaintiffs' Motion for Extension of Scheduling Order is **GRANTED IN PART AND DENIED IN PART**.

Dated: June 19, 2013

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Counsel of Record